

TWELFTH DAY

(Thursday, September 25, 1986)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by President Pro Tempore Truan.

The roll was called and the following Senators were present: Anderson, Barrientos, Blake, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parker, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Washington, Whitmire.

Absent-excused: Brooks, Uribe.

A quorum was announced present.

(President in Chair)

Senator J. E. "Buster" Brown offered the invocation as follows:

Our Dear Heavenly Father, we are thankful for all the blessings that You have provided us. We're thankful for the opportunity to be in this body to be deliberating on issues that are of concern to all the people of this State. Help all of us that do participate in this process to remember that we may be able to justify our every deed, but You look at our motives. We may always be able to prove that we are right, but have we convinced You? Please guide and direct us. In Your Name we pray. Amen.

On motion of Senator Mauzy and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVES OF ABSENCE

Senator Brooks was granted leave of absence for today on account of important business on motion of Senator Mauzy.

Senator Uribe was granted leave of absence for today on account of important business on motion of Senator Truan.

REPORTS OF STANDING COMMITTEES

Senator Santiesteban submitted the following report for the Committee on Natural Resources:

H.B. 59

S.B. 48

Senator Farabee submitted the following report for the Committee on State Affairs:

S.C.R. 12

GUESTS PRESENTED

Senator Sims was recognized and introduced Dr. Raymond Smith of Fredericksburg, the Capitol Physician for the Day.

Dr. Smith, accompanied by his wife, was welcomed by the Senate and they expressed their appreciation to him for his service.

SENATE BILLS ON FIRST READING

The following bills were introduced, read first time and referred to the Committee indicated:

S.B. 51 by Jones Finance
Relating to transfers to school districts from the foundation school fund.

S.B. 52 by Jones Finance
Relating to the contingent expiration of **S.B. 40**, Acts of the 69th Legislature, 2nd Called Session, 1986, relating to certain state salary rates; and amending Section 5 of that Act.

S.B. 53 by Caperton Finance
Relating to rate of the state limited retail sales and use tax and to the rate of motor fuel taxes.

BILL AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bill and resolutions:

S.B. 23
S.C.R. 7
S.C.R. 18

MESSAGE FROM THE GOVERNOR

The following Message from the Governor was read and was referred to the Committee on Nominations:

Austin, Texas
September 24, 1986

TO THE SENATE OF THE SIXTY-NINTH LEGISLATURE, THIRD
CALLED SESSION:

I ask the advice, consent and confirmation of the Senate with respect to the following appointment:

TO BE DISTRICT JUDGE OF THE 110TH JUDICIAL DISTRICT OF TEXAS,
BRISCOE, DICKENS, FLOYD, AND MOTLEY COUNTIES, UNTIL THE
NEXT GENERAL ELECTION AND UNTIL HIS SUCCESSOR SHALL BE
DULY ELECTED AND QUALIFIED:

To be effective October 3, 1986:

DAVID C. CAVE
Post Office Box 456
Spur, Texas 79370

(Mr. Cave is replacing The Honorable George W. Miller of Floydada, Floyd County, Texas, who resigned.)

Respectfully submitted,
/s/Mark White
Governor of Texas

MESSAGE FROM THE HOUSE

House Chamber
September 25, 1986

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 40, Relating to the notification of victims and certain other persons about parole hearings for criminal defendants.

H.C.R. 16, Granting David Wayne Williams permission to sue the State of Texas.

H.C.R. 27, In memory of Gwendolyn Ray Madison.

H.C.R. 19, Congratulating Good's Pharmacy of Tyler on 50th Anniversary.

S.C.R. 19, In memory of Earl Seastrunk Hines.

S.B. 13, Relating to rewards for State employee efforts that improve State government productivity. (As amended)

S.C.R. 4, Creating a study by the Finance Commission of Texas relating to the feasibility and practicality of mortgage company regulation by the State of Texas.

H.C.R. 14, Granting John D. Little permission to sue the State of Texas and East Texas State University Health Center.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

HOUSE CONCURRENT RESOLUTION 6 ON SECOND READING

On motion of Senator Blake and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

H.C.R. 6, Granting Vanderburg Investments, Inc., J. Q. Vanderburg and InterFirst Bank San Antonio, N.A., permission to sue the State of Texas, the State Purchasing and General Services Commission and the Texas Department of Human Services.

The resolution was read second time and was adopted viva voce vote.

SENATE RULE 103 SUSPENDED

On motion of Senator Jones and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Finance might consider **S.B. 52** today upon adjournment of the Caucus.

SENATE CAUCUS

On motion of Senator Mauzy, the Senate agreed to Caucus upon recess today.

RECESS

On motion of Senator Mauzy, the Senate at 11:14 o'clock a.m. took recess until 2:00 o'clock p.m. today.

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
September 25, 1986

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.B. 34, Relating to a requirement that certain prisoners not be released to mandatory supervision.

H.B. 46, Relating to the name and powers of water supply corporations.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

**CONFERENCE COMMITTEE REPORT
SENATE BILL 1**

Senator Jones submitted the following Conference Committee Report:

Austin, Texas
September 25, 1986

Honorable William P. Hobby
President of the Senate

Honorable Gibson D. "Gib" Lewis
Speaker of the House of Representatives

Sir:

We, your Conference Committee, appointed to adjust the differences between the Senate and the House of Representatives on Senate Bill 1 have met and had the same under consideration, and beg to report it back with the recommendation that it do pass in the form attached.

JONES
CAPERTON
FARABEE
McFARLAND
MONTFORD

On the part of the Senate

RUDD
HOLLOWELL
McWILLIAMS
MADLA

On the part of the House

The Conference Committee Report was read and was filed with the Secretary of the Senate.

**CONFERENCE COMMITTEE REPORT ON
SENATE BILL 1 ORDERED NOT PRINTED**

On motion of Senator Jones and by unanimous consent, the Conference Committee Report on S.B. 1 was ordered not printed.

SENATE RULE 74a SUSPENDED

On motion of Senator Leedom and by unanimous consent, Senate Rule 74a was suspended as it relates to the House amendment to S.B. 13.

SENATE BILL 13 WITH HOUSE AMENDMENT

Senator Leedom called S.B. 13 from the President's table for consideration of the House amendment to the bill.

The President laid the bill and the House amendment before the Senate.
Floor Amendment - Richardson

Amend S.B. 13 as follows:

On line 21 of p. 7 after "1987," add "except the provision relating to staffing of the Employee Incentive Commission, which provision shall be effective immediately,"

On p. 2 line 13 add a new sentence: "SECTION 2A. The Legislative Budget Board shall provide such staffing to the State Employee Incentive Commission as may be requested by the State Employee Incentive Commission."

The amendment was read.

Senator Leedom moved to concur in the House amendment.

The motion prevailed viva voce vote.

REPORT OF STANDING COMMITTEE

By unanimous consent, Senator Jones submitted the following report for the Committee on Finance:

S.B. 52**HOUSE BILLS AND RESOLUTIONS ON FIRST READING**

The following bills and resolutions received from the House were read the first time and referred to the Committee indicated:

H.B. 34, To Committee on Criminal Justice.

H.B. 40, To Committee on Criminal Justice.

H.B. 46, To Committee on Natural Resources.

H.C.R. 2, To Committee on State Affairs.

H.C.R. 14, To Committee on Jurisprudence.

H.C.R. 16, To Committee on Jurisprudence.

HOUSE CONCURRENT RESOLUTION 19

The President laid before the Senate the following resolution:

H.C.R. 19, Congratulating Good's Pharmacy of Tyler on the store's 50th anniversary.

The resolution was read.

On motion of Senator Lyon and by unanimous consent, the resolution was considered immediately and was adopted viva voce vote.

GUESTS PRESENTED

Senator Lyon was recognized and introduced Royce Johnson and Mike Berry, previous owners of Good's Pharmacy, and Guy Martin, current owner of the pharmacy.

The Senate welcomed these gentlemen as guests for the day.

SENATE BILL 52 ON SECOND READING

On motion of Senator Jones and by unanimous consent, the regular order of business and all necessary rules, including the printing rule, were suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 52, Relating to the contingent expiration of **S.B. No. 40**, Acts of the 69th Legislature, 2nd Called Session, 1986, relating to certain state salary rates; and amending Section 5 of that Act.

The bill was read second time and was passed to engrossment viva voce vote.

SENATE BILL 52 ON THIRD READING

Senator Jones moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that **S.B. 52** be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 28, Nays 1.

Nays: Washington.

Absent-excused: Brooks, Uribe.

The bill was read third time and was passed by the following vote: Yeas 29, Nays 0.

Absent-excused: Brooks, Uribe.

SENATE CONCURRENT RESOLUTION 13 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

S.C.R. 13, Granting Mott Construction Corporation permission to sue the State of Texas and Texas Southern University.

The resolution was read second time and was adopted viva voce vote.

SENATE CONCURRENT RESOLUTION 16 ON SECOND READING

On motion of Senator Green and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

S.C.R. 16, Granting Debora Thompson permission to sue the State of Texas and the Texas Department of Mental Health and Mental Retardation.

The resolution was read second time and was adopted viva voce vote.

RECORD OF VOTE

Senator Jones asked to be recorded as voting "Nay" on the adoption of the resolution.

HOUSE CONCURRENT RESOLUTION 3 ON SECOND READING

On motion of Senator McFarland and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading:

H.C.R. 3, Granting The National Life and Accident Insurance Company permission to sue the State of Texas and the State Board of Insurance.

The resolution was read second time and was adopted viva voce vote.

SENATE RULES SUSPENDED

On motion of Senator Jones and by unanimous consent, the Senate agreed to suspend all necessary rules, including printing and posting rules, in order that the Senate Finance Committee might hear any tax bills received from the House before 9:00 o'clock a.m. Monday, September 29, 1986.

**SENATE CONCURRENT RESOLUTION 3
LAID ON TABLE SUBJECT TO CALL**

On motion of Senator Washington and by unanimous consent, S.C.R. 3 was Laid on Table Subject to Call.

**SENATE CONCURRENT RESOLUTION 5
LAID ON TABLE SUBJECT TO CALL**

On motion of Senator McFarland and by unanimous consent, S.C.R. 5 was Laid on Table Subject to Call.

MESSAGE FROM THE HOUSE

House Chamber
September 25, 1986

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

H.C.R. 2, Authorizing the flying of the official POW/MIA flag on the Capitol grounds starting September 16, 1986.

H.C.R. 17, Creating a committee to select the Sesquicentennial Texas State Artist.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL 29 ON SECOND READING

On motion of Senator Montford and by unanimous consent, the regular order of business was suspended to take up for consideration at this time on its second reading and passage to engrossment:

S.B. 29, Relating to the transfer of tax credits allowed on the sale of gasohol.

The bill was read second time.

Senator Sarpalius offered the following amendment to the bill:

Floor Amendment No. 1

Amend S.B. 29 by striking all below the enacting clause and substituting the following:

SECTION 1. Subdivisions (1), (2), and (3) of Subsection (b) and Subsection (d), Section 153.123, Tax Code, are amended to read as follows:

(b)(1) On or before the 30th day preceding each calendar quarter, the comptroller shall estimate (based on the most recent data available) the total volume, in gallons, of first sales or uses of gasoline and alcohol mixture meeting the requirements of Subsection (e) of this section, and the total amount of credits which will be allowed to distributors under Subsection (d), both for the next calendar

quarter. If the total amount of that estimated credit exceeds \$71,250, or \$425,000 if the comptroller determines that a significant and new facility in this state is producing a gasoline and alcohol mixture using alcohol produced from renewable sources produced in this state [\$2,712,500], the comptroller shall estimate and publish in the Texas Register a credit per gallon (rounded to the nearest one-tenth cent) of mixture which, if applied to first sales or uses of gasoline and alcohol mixture containing alcohol produced from renewable sources produced outside the state, would limit the total of the credits allowed to \$71,250, or \$425,000 if the comptroller makes the determination described by this subdivision, [\$2,712,500] for the next calendar quarter. Such estimated amount shall be the maximum amount of the credit which may be claimed for the next calendar quarter for first sales or uses of gasoline and alcohol mixture containing alcohol produced from renewable sources produced outside the state.

(2) If the total amount of the estimated credit resulting from first sales or uses of gasoline and alcohol mixtures containing alcohol from renewable sources produced in the state only exceeds \$71,250, or \$425,000 if the comptroller makes the determination described by Subdivision (1) of this subsection, [\$2,712,500] for the next calendar quarter, then no credit may be claimed for such mixtures containing alcohol produced from renewable sources from outside the state, and the comptroller shall estimate and publish in the Texas Register a credit per gallon (rounded to the nearest one-tenth cent) of mixture which, if applied to first sales or uses of such mixtures containing alcohol produced from renewable sources produced in the state, would limit the total of the credits allowed to \$71,250, or \$425,000 if the comptroller makes the determination described by Subdivision (1) of this subsection [\$2,712,500] for the next calendar quarter. Such estimated amount shall be the maximum of the credit which may be claimed for the next calendar quarter for first sales or uses of gasoline and alcohol mixture produced from renewable sources from within the state.

(3) In arriving at estimates of credits per gallon of mixture which will limit the total credits under this subsection, [to \$2,712,500 per calendar quarter,] the comptroller shall consider actual total credits during the second preceding calendar quarter and shall, if necessary, include an adjustment in the estimate for the next calendar quarter to account for the difference between actual total credits during the second preceding calendar quarter and \$71,250, or \$425,000 if the comptroller makes the determination described by Subdivision (1) of this subsection [\$2,712,500].

(d) A distributor may claim a credit on the first sale or use of the gasoline and alcohol mixture described in Subsection (e) of this section or on the gasoline used for mixing with ethyl alcohol if the mixture meets the specifications described in Subsection (e) of this section, in the amount per gallon specified in Subsections (a) and (b) of this section. The distributor may take the credit on his monthly Texas gasoline distribution report. [The comptroller shall, on or before the 25th day of the last month of each quarter of the fiscal year, transfer the total amount of credits allowed the previous quarter from the general revenue fund to the funds to which the credits would have been allocated if they had been originally collected as tax and allocated under Section 153.503 of this code.] If a claim is based on gasoline used for mixing with ethyl alcohol, the comptroller may require the person making the claim to include in the claim the total number of gallons of ethyl alcohol produced or purchased and not thereafter resold or distributed as ethyl alcohol and any other information deemed necessary. The forms to be used, the procedure for filing, and the time within which a claim for credit must be instituted are the same as those set forth for claims for refund of taxes provided in Sections 153.120 and 153.121 of this code, with any modifications that the comptroller determines to be appropriate to accomplish the purposes of this section.

SECTION 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

The amendment was read and was adopted by the following vote: Yeas 11, Nays 10.

Yeas: Anderson, Barrientos, Edwards, Farabee, Leedom, Lyon, Mauzy, Sarpalius, Sims, Traeger, Washington.

Nays: Caperton, Henderson, Jones, Kothmann, Krier, McFarland, Montford, Parmer, Santiesteban, Truan.

Absent: Blake, Brown, Glasgow, Green, Harris, Parker, Sharp, Whitmire.

Absent-excused: Brooks, Uribe.

(President in Chair)

Senator Montford offered the following amendment to the bill:

Floor Amendment No. 2

Amend S.B. 29 by striking Section 2 and adding the following:

SECTION 2. This act takes effect the date that the 69th Legislature, at its Third Called Session, enacts legislation increasing the rate of any tax imposed under Chapter 153, Tax Code.

(b) If the 69th Legislature at its third called session does not enact legislation increasing the rate of a tax under Chapter 153, Tax Code, this Act has no effect.

SECTION 3. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force according to its terms, and it is so enacted.

The amendment was read and was adopted viva voce vote.

On motion of Senator Montford and by unanimous consent, the caption was amended to conform to the body of the bill as amended.

The bill as amended was passed to engrossment viva voce vote.

SENATE BILL 29 ON THIRD READING

Senator Montford moved that the Constitutional Rule and Senate Rule 68 requiring bills to be read on three several days be suspended and that S.B. 29 be placed on its third reading and final passage.

The motion prevailed by the following vote: Yeas 20, Nays 1.

Nays: Washington.

Absent: Blake, Brown, Glasgow, Green, Harris, Parker, Sharp, Whitmire.

Absent-excused: Brooks, Uribe.

The bill was read third time and was passed by the following vote: Yeas 21, Nays 0.

Absent: Blake, Brown, Glasgow, Green, Harris, Parker, Sharp, Whitmire.

Absent-excused: Brooks, Uribe.

MOTION TO ADJOURN

On motion of Senator Mauzy and by unanimous consent, the Senate at 2:49 o'clock p.m. agreed to recess until 2:00 o'clock p.m. Sunday, September 28, 1986, and at the conclusion of that session, adjourn until 11:00 o'clock a.m. Monday, September 29, 1986.

RECESS

On motion of Senator Mauzy, the Senate at 2:49 o'clock p.m. took recess until 2:00 o'clock p.m. Sunday, September 28, 1986.

TWELFTH DAY

(Continued)

(Sunday, September 28, 1986)

AFTER RECESS

The Senate met at 2:00 o'clock p.m. and was called to order by the President.

MESSAGE FROM THE HOUSE

House Chamber
September 28, 1986

HONORABLE W. P. HOBBY
PRESIDENT OF THE SENATE

SIR: I am directed by the House to inform the Senate that the House has passed the following:

The House has adopted the Conference Committee Report on S.B. 1 by a non record vote.

H.B. 79, Relating to telecommunications for state and local government and to the imposition, rate, collection, administration, and civil and criminal enforcement of, and the allocation of revenue from, various state and state authorized local taxes the revenue from which may be used for telecommunications systems and for general state and local governmental operations.

H.B. 38, Relating to retirement eligibility and benefits for certain members of the Teacher Retirement System of Texas.

H.B. 41, Relating to the collection of money due to the Texas 1986 Sesquicentennial Commission.

H.B. 43, Relating to the sale of Texas souvenirs.

H.B. 63, Relating to the venue of suits brought against the University Interscholastic League.

H.B. 67, Relating to the issuance and sale of certain bonds to finance the farm and ranch finance program fund.

H.B. 68, Relating to the abolition of the Texas Commission on Economy and Efficiency in State Government.

H.B. 78, Relating to the salary of certain Texas Department of Corrections employees.

H.B. 82, Relating to the examination, approval, and registration of certain bonds, proceedings, contracts, and instruments.

H.C.R. 29, In memory of Robert Cargill, Sr.

H.C.R. 30, Commending the Honorable E. A. "Squatty" Lyons, Harris County Commissioner.

The House has concurred in Senate amendments to **H.B. 5** by a vote of 146 yeas, 1 nay, 1 present-not voting.

S.B. 4, Relating to primaries, other elections, political party conventions, the selection of delegates to national presidential nominating conventions, and procedures related to candidacy for public office. (As substituted)

S.B. 6, Relating to the transfer of certain amounts from certain special funds to the general revenue fund. (As substituted)

S.B. 9, Relating to the use of funds belonging to patients in institutions under the jurisdiction of the Texas Department of Mental Health and Mental Retardation. (As amended)

S.B. 32, Relating to the number of residents a foster care type residential facility may serve without being licensed under the convalescent and nursing home law.

S.B. 44, Relating to the release of information in certain records maintained by the Department of Public Safety.

Respectfully,

BETTY MURRAY, Chief Clerk
House of Representatives

SENATE BILL AND RESOLUTION ON FIRST READING

The following bill and resolution were introduced, read first time and referred to the Committee indicated:

S.B. 54 by Caperton Criminal Justice
Relating to the salary of certain Texas Department of Corrections employees.

S.C.R. 20 by Washington Jurisprudence
Granting Pringle-Dixon-Pringle permission to sue the State of Texas and The University of Texas System Cancer Center—M. D. Anderson Hospital and Tumor Institute.

SENATE RULE 103 SUSPENDED

On motion of Senator Edwards and by unanimous consent, Senate Rule 103 was suspended in order that the Committee on Nominations might meet at 10:00 o'clock a.m. tomorrow, Monday, September 29, 1986.

HOUSE BILLS ON FIRST READING

The following bills received from the House were read the first time and referred to the Committee indicated:

H.B. 79, To Committee on Finance.

H.B. 38, To Committee on Finance.

H.B. 41, To Committee on State Affairs.

H.B. 43, To Committee on State Affairs.

H.B. 63, To Committee on Jurisprudence.

H.B. 67, To Committee on Natural Resources.
H.B. 68, To Committee on State Affairs.
H.B. 78, To Committee on Criminal Justice.
H.B. 82, To Committee on State Affairs.

ADJOURNMENT

On motion of Senator Brooks, the Senate at 2:06 o'clock p.m. adjourned until 11:00 o'clock a.m. Monday, September 29, 1986.

APPENDIX

Sent to Governor
(September 25, 1986)

S.B. 23
S.C.R. 7
S.C.R. 18

THIRTEENTH DAY

(Monday, September 29, 1986)

The Senate met at 11:00 o'clock a.m., pursuant to adjournment and was called to order by the President.

The roll was called and the following Senators were present: Anderson, Barrientos, Blake, Brooks, Brown, Caperton, Edwards, Farabee, Glasgow, Green, Harris, Henderson, Jones, Kothmann, Krier, Leedom, Lyon, McFarland, Mauzy, Montford, Parmer, Santiesteban, Sarpalius, Sharp, Sims, Traeger, Truan, Uribe, Washington, Whitmire.

Absent-excused: Parker.

A quorum was announced present.

Chief Jim Morris, Senate Doorkeeper, offered the invocation as follows:

Heavenly Father, this morning we pause to give thanks that ours is a life of choices and for this privilege we are grateful.

Our prayer this day is that You will guide these in the choices they make and each will know of and be blessed by Thy presence.

In Jesus' name we pray. Amen.

On motion of Senator Brooks and by unanimous consent, the reading of the Journal of the proceedings of yesterday was dispensed with and the Journal was approved.

LEAVE OF ABSENCE

Senator Parker was granted leave of absence for today on account of important business on motion of Senator Brooks.

BILLS AND RESOLUTIONS SIGNED

The President announced the signing in the presence of the Senate, after the caption had been read, the following enrolled bills and resolutions:

S.B. 13
S.B. 32